

**BEFORE THE IOWA BOARD OF PHARMACY**

<b>RE:</b> Pharmacy License and Controlled Substances Act Registration of  <b>WALGREENS 05886</b> License No. 1150 Registration No. 1107674 Respondent	<b>CASE NO. 2019-0127</b>  <b>COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT, AND FINAL ORDER</b>
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**COME NOW** the Iowa Board of Pharmacy ("Board") and Walgreens 05886 ("Respondent"), 1215 Main St, Keokuk IA 52632, and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Order") pursuant to Iowa Code sections 17A.10 and 272C.3(4), and 657 IAC 35.5. The Board has jurisdiction over Respondent and the subject matter of this case pursuant to Iowa Code chapters 17A, 124, 155A, and 272C (2019), and 657 IAC 36.

**A. STATEMENT OF CHARGES**

**COUNT I**

**FAILING TO ESTABLISH AND MAINTAIN EFFECTIVE CONTROLS AGAINST THEFT**

1. Respondent is charged with failing to establish and maintain effective controls against the theft or diversion of controlled substances in violation of 657 IAC 8.3(5)"b" and 10.13, and may be disciplined pursuant to Iowa Code sections 124.304(1)(d), 155A.15(2)(c), and 155A.15(2)(i), and 657 IAC 10.10(1)"d", 10.44(5), and 36.6(21).

**COUNT II**

**FAILURE TO KEEP ACCURATE PERPETUAL INVENTORY**

2. Respondent is charged with failing to keep an accurate perpetual inventory record for Schedule II controlled substances as required by 657 IAC 10.18, and may be disciplined pursuant to Iowa Code sections 124.304(1)(d), 155A.15(2)(c), and 155A.15(2)(h), and 657 IAC 10.10(1)"d", 10.44(5), 36.6(21), and 36.6(28).

**B. FACTUAL CIRCUMSTANCES**

3. Respondent's Iowa pharmacy license is currently active through December 31, 2020. Respondent's Iowa Controlled Substances Act registration is currently active through May 31, 2020.

4. In August 2019, the pharmacy discovered shortages of four schedule II controlled substances.

5. The missing controlled substances were eventually attributed to employee pilferage.
6. The investigation revealed that the pharmacy was not keeping an accurate perpetual inventory.

### C. SETTLEMENT AGREEMENT AND FINAL ORDER

7. The Board has jurisdiction over the parties and the subject matter of this proceeding.
8. Respondent denies the allegations in the Statement of Charges, but acknowledges for purposes of settlement, that the allegations in the Statement of Charges, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Order.
9. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's action, by freely and voluntarily entering into this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
10. Respondent acknowledges that it has the right to be represented by counsel on this matter.
11. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.
12. This Order is subject to approval by a majority of the full Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.
13. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
14. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.
15. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.
16. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

**IT IS THEREFORE ORDERED:**

17. Respondent's license and registration shall be placed on **PROBATION** for a period of three (3) years, subject to the following conditions:

- a. Respondent shall pay a **CIVIL PENALTY** in the amount of two thousand dollars (\$2,000) within sixty (60) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund. The civil penalty should be mailed to the Iowa Board of Pharmacy, Attn: Amanda Woltz, 400 SW 8<sup>th</sup> St, Ste E, Des Moines IA 50309.
- b. Beginning no later than July 1, 2020, Respondent shall conduct a monthly physical inventory and reconciliation for all Schedule II controlled substances for the first year of probation. After one (1) year, Respondent shall conduct a bimonthly (once every two months) physical inventory and reconciliation for all Schedule II controlled substances. Documentation of each inventory/reconciliation shall be sent to the Board upon completion via email to [amanda.woltz@iowa.gov](mailto:amanda.woltz@iowa.gov). The Board may reduce the frequency of the physical inventory and reconciliation at any time during the probationary period.
- c. Respondent shall notify the Board immediately of any controlled substances that are unaccounted for or any irregularities pertaining to the controlled substances inventory.
- d. Respondent shall ensure the pharmacist in charge and all pharmacy staff are following all corporate-issued policies and procedures related to the receipt and distribution of controlled substances.
- e. Respondent may request early release from probation after two (2) years. The Board retains the discretion to determine whether early release should be granted based on Respondent's compliance with the probationary terms.

18. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 124, 155A, and 272C and 657 IAC chapters 10 and 36.

By the signature below, \_\_\_\_\_ Rina Shah \_\_\_\_\_ acknowledges s/he is the

GVP, Specialty & Retail Pharmacy Ops for Respondent and is authorized to sign this Combined Statement of Charges, Settlement Agreement, and Final Order on behalf of Respondent.

6/16/2020

Date



WALGREENS 05886

Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Pharmacy on June 23, 2020.



Chairperson

Iowa Board of Pharmacy